



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Barbara Attard, IPA
Les White, City Manager

SUBJECT: Acceptance of the IPA Mid-Year
Report Policy Recommendations

DATE: February 15, 2006

Council District: Citywide

RECOMMENDATION

Acceptance of the Independent Police Auditor's (IPA) 2005 Mid-Year Report Policy Recommendations and Police Department's (SJPd) Response.

- (a) Acceptance of the San Jose Police Department Taser Usage Guidelines presented to Council on November 29, 2005, and,
- (b) Acceptance of the IPA's recommendation that the IPA receive copies of the homicide reports for SJPd's officer-involved shootings and in-custody deaths.

BACKGROUND

In November 2005, at the time the IPA presented the Mid-Year Report to the Mayor and City Council, there was disagreement between the IPA and SJPd about the IPA policy recommendations. The Council directed the City Attorney, the Independent Police Auditor, the Police Chief and the Manager to confer and return to Council in January 2006 with a recommendation for codifying or otherwise adopting by reference the San Jose Police Department TASER Use Guidelines. The presentation of this item to Council was postponed to enable further discussion between the IPA and SJPd.

ANALYSIS

- a) Establishment of written directives for TASER use by SJPd officers:

The IPA has agreed that the written guidelines developed by SJPd that were presented to the City Council on November 29 will provide appropriate guidance to officers for TASER use. The guidelines will be formally issued to all officers as a numbered Training Bulletin and will become part of the training curriculum. The Chief of Police has ensured the Council and the IPA that the guidelines will be binding to officers and fully enforceable. Officers will be held accountable to the training guidelines as they are to policies in the Duty Manual.

- b) Provision of SJPd homicide reports to the IPA for review of officer-involved shooting and death in custody cases:

Chief Davis and the IPA have agreed that the SJPd will provide the IPA with copies of homicide reports for IPA review in officer-involved shooting and in-custody death cases. As with all police records, the IPA will ensure that the homicide file is reviewed only by confidential IPA staff. The IPA agrees to make no copies of the homicide file and will return the report after all analysis is completed. The reports will be secured in a locked file when not in use.

COORDINATION

This memorandum has been coordinated with the Police Department, the Office of the City Manager, the Office of the City Attorney, and the Office of the Independent Police Auditor.



LES WHITE
City Manager



BARBARA J. ATTARD
Independent Police Auditor

Attachments:

SJPd August 18, 2005 Memorandum, "Duty Manual Additions Sections A 2312 and E 1204- Training Bulletins"

SJPd Taser Usage Guidelines



Memorandum

TO: All Department Personnel

FROM: Robert L. Davis
Chief of Police

SUBJECT: DUTY MANUAL ADDITIONS
SECTIONS A 2312 and E 1204 -
TRAINING BULLETINS

DATE: August 18, 2005

Approved

Date 05-026

BACKGROUND

The San Jose Police Department often receives various updates, bulletins and other information related to law enforcement. These notifications could include legal updates, vendor specific product/training issues, or officer safety information such as concealed or disguised weapons. However, there is no formal process currently in place to disseminate time-critical information to the appropriate personnel.

ANALYSIS

To address this need, the Department has developed a mechanism in which time-sensitive information shall be disseminated to Department personnel. A San Jose Police Department "Training Bulletin" has been developed, which will be distributed to Department personnel on an "as needed" basis.

The Department's Training Unit will be responsible for coordinating distribution of the Training Bulletin through the Research and Development Unit (R&D). These Bulletins will be published when legal updates, product/training issues, or officer-safety concerns are discovered. The Bulletin format will be written in free form and will include photographs if appropriate. The Bulletins will be distributed in the same manner as Department Orders, and will also be available on the Department's Intranet under "Policies and Procedures."

The Training Bulletin is to be considered an official Police document. Each Bulletin will be assigned a Training Bulletin number and distributed through R&D. Members of the Department are expected to review each Bulletin and apply its contents to ongoing Police operations.

Training Bulletin Procedures

The Department's Training Unit and R&D staff will determine the appropriate information to be disseminated through the Training Bulletin process.

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Personnel who become aware of issues that might require immediate Department-wide notification should follow the procedures described as follows:

- Department personnel should contact a Training Unit supervisor or the R&D Unit to determine if the information meets the criteria to issue a SJPD Training Bulletin.
- The information should be submitted as a memorandum and can be written in free form with no specific format. The memorandum should include any supporting articles or photographs, if available.
- The Training Unit will review the submission and forward to the R&D Unit for final review and processing.

Additions to the San Jose Police Department Duty Manual to reflect this process are shown below in *bold italics*.

A 2312 TRAINING BULLETINS

Added 08/18/05

Training Bulletins are issued under the authority of the Chief of Police to address those instances where critical or time sensitive information related to police operations should be quickly disseminated. Instances where a Training Bulletin might be appropriate include legal updates, vendor specific product/training issues, or officer safety information such as concealed or disguised weapons.

E 1205 SUBMITTAL OF TRAINING BULLETIN INFORMATION

Added 08/18/05

Department members who become aware of issues that they feel might require immediate notification to Department personnel will contact a Department Training Unit supervisor or the Research and Development Unit. The information should be submitted as a memorandum and can be written in free form with no specific format. The memorandum should include any supporting articles or photographs, if available.

ORDER

Effective immediately, all Department Personnel will adhere to the San Jose Police Department Training Bulletin policy guidelines.



ROBERT L. DAVIS
Chief of Police

RLD:GLK:EF:CE





Foreword

San Jose Police Department (SJPD) Duty Manual Sections L 2600 to L 2641 outline when officers may use force in the line of duty to effect a detention, prevent an escape, overcome resistance, defend one's self, or defend others. As outlined in these sections, the philosophy and policy of the Department is to use the *least* amount of force necessary to make an arrest or to defend one's self or others.

One of the force option devices available to all patrol personnel is the electronic Taser. This tool has already proven itself to be invaluable to San Jose officers, in that it has allowed officers to use force that typically causes less injury to a resistant suspect than would a baton, rifle, shotgun, or other impact device. In addition, the device has led to a reduction in injuries to officers and suspects. Yet for all of the success surrounding Taser usage around the world, recent nationwide incidents in which a suspect has died after a Taser device was used have led to calls for more study about the Taser, as well as requests for police departments to establish written guidelines for Taser usage.

To address these concerns, Lt. Gary Kirby of the SJPD Research and Development Unit was assigned to attend a national conference in October 2005 led by the Police Executive Research Forum (PERF). PERF is an organization dedicated to providing police chiefs and management staff with data and information to help improve police operations. The conference focused on establishing best practices and guidelines for Taser usage. Lt. Kirby played an active role in outlining PERF's written guidelines, and he coordinated an update of the initial Taser training imparted to each officer issued a Taser. Lt. Kirby also assisted in providing updates to the current Taser Update course being provided during this year's Continuous Professional Training (CPT) course.

Lt. Kirby and the Research and Development Unit staff have also used the PERF recommendations to establish this set of written guidelines for SJPD Taser usage. While it is recognized that split-second use of force decisions are among the most difficult decisions an officer makes, and that no use of force guidelines can account for all of the many circumstances that drive an officer's decision to use a particular type of force, these written SJPD Taser Guidelines will provide additional direction on how San Jose officers should be using the Taser in field situations.

It is anticipated that these Taser Usage Guidelines will be updated on an ongoing basis as more information is learned about Tasers worldwide.



The general provisions of the San Jose Police Department's (SJPD) Use of Force Policies are found in Duty Manual Sections L 2600 – 2605, L 2614 and L 2616 – 2617. All uses of the Taser by SJPD officers must conform to these Duty Manual policies, and the guidelines outlined below will assist officers in this effort.

I. Taser Training:

- A. All officers will complete the *San Jose Police Department Electronic Weapons User Course* prior to carrying and deploying a Taser device in the field.
- B. Officers will only carry and deploy on-duty Taser devices that have been issued by the SJPD.
- C. All officers will attend the mandatory *Taser Update Course* in the Continuous Professional Training Course (CPT) the Training Unit provides.
- D. All officers will adhere to future training directives regarding Taser usage as outlined in the ongoing Training Bulletins the Research and Development Unit issues.

II. Taser Usage

- A. Absent exigent circumstances, the Taser should only be used against persons who are actively resisting or exhibiting active aggression, or to prevent individuals from harming themselves or others.
- B. Absent exigent circumstances, officers should avoid activating multiple Taser devices against a single suspect at the same time.
- C. In general, the Taser should be deployed for the shortest period possible to take a suspect safely into custody. After each application of a five-second cycle of the Taser, an officer should weigh the circumstances involved to determine whether additional Taser discharges would be effective in safely taking the suspect into custody or whether another force option should be considered. In general, attempts should be made to use the Taser no more than three five-second cycles. In any event, the circumstances surrounding the number of Taser discharges will be documented in the Use of Force Crime Report.



- D. Absent exigent circumstances, Tasers should not be used against obviously pregnant women, elderly persons, young children, or visibly frail persons. An example of an exigent circumstance would be a situation in which an obviously pregnant woman was in the process of harming herself or another person, and more intrusive force, such as a baton, would be necessary if not for the use of a Taser.
- E. Absent exigent circumstances, Tasers should not be deployed against handcuffed persons unless they are actively resisting or exhibiting active aggression, and only in order to prevent such persons from harming themselves or others.
- F. Absent exigent circumstances, Tasers should not be deployed in locations where a suspect's fall may cause substantial injury or death.
- G. Whenever a Taser is discharged on a suspect, an official hospital medical clearance will be obtained prior to the suspect's booking. If a suspect exhibits the need for medical attention at the scene of the arrest, emergency medical assistance will be summoned immediately.
- H. Officers should avoid firing Taser darts at a subject's head, neck and genitalia.
- I. The preferred method for Taser deployment is the Probe Method, with the Drive Stun method generally used as a secondary option.
- J. Absent exigent circumstances, Tasers should not be used against suspects in physical control of a vehicle in motion, to include automobiles, trucks, motorcycles, ATVs, bicycles, and scooters.
- K. If circumstances permit, a verbal warning should be given to a suspect and other officers present prior to activating the Taser unless to do so would place another person at risk or a tactical advantage would be lost.
- L. A patrol supervisor should respond to all incident scenes in which a Taser was activated to ensure Department policies and procedures are followed.



- M. Tasers have been shown to be an effective tool against aggressive animals. Tasers may be used against animals if an animal poses a threat to officers or others.

III. Taser Usage Reporting Requirements:

- A. All activations of the Taser, other than spark testing, will be documented. Targeting of a suspect with a Taser laser sight, or arcing a Taser for purposes of gaining voluntary compliance, will be documented in the Computer-Aided Dispatch (CAD) event. Actual deployment of a Taser against a person will be documented in a Crime Report and a Use of Force Tracking Report. Accidental discharges of a Taser will be documented on a Departmental Memorandum addressed to the Chief of Police, which is then forwarded up through the entire chain of command.
- B. Officers are responsible for submitting written documentation of Taser deployment to a supervisor for review and signature prior to submission to the Records Division.
- C. A supervisor presented with Taser documentation will conduct a thorough review for compliance with all policies and procedures prior to signing the report or transmittal form.